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Its a little unclear exactly what is proposed. It looks like the FPAA can determine that the section 754 election is invalid and that all income and deductions (after adjustment for the section 754 issue) should be reported directly by the single owner of the disregarded entities.

Section 6233(a) would allow us to do this. The disregarded entity that filed the partnership return is disregarded an an entity "separate from" its owner. So the partnership return filed by the DE should be deemed to have been filed by the owner with respect to income generated by the DE. This would give the FPAA jurisdiction to make the above substantive determinations as to what income the owner derived from the DE activities.

I think the same result occurs under section 6233(b) if it is determined that there is no entity that filed the return since the regulation for this subsection provides that "for the purposes of applying paragraph (a) of this section, the partnership return shall be treated as if it were filed by an entity."

